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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of  
LARRY L. BRADFORD et al.

Serial No: 09/392,434

Filing Date: September 9, 1999

Title: POLYURETHANE FOAM CONTAINING  
FLAME RETARDANT BLEND OF  
NON-OLIGOMERIC AND OLIGOMERIC  
FLAME RETARDANTS

: Docket No: ACA 6124 US

: Examiner: R. Sergeant

: Group Art Unit: 1711

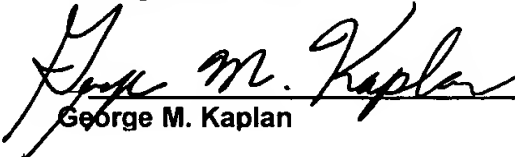
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Commissioner for Patents  
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on August 27, 2004

  
George M. Kaplan

REPLY BRIEF

This is in reply to the Examiner's Answer of June 28, 2004.

The real party in interest for the instant Appeal is now  
Ripplewood Phosphorus LLC by virtue of a divestiture of Akzo Nobel's  
Phosphorus Chemicals business unit. The closing for this divestiture  
occurred subsequent to the filing of the Appeal Brief. This change in  
the real party in interest is not deemed to affect the merits of the  
Appeal.

The undersigned agrees to the Examiner's statement of the issues  
presented and to the minor claim amendments listed in part 8 of the  
Examiner's Answer.

The Examiner's statement on page 5 of his Answer that "...it is proper to refer to the [Fearing] compounds as organophosphates" incorrectly characterizes what the person of ordinary skill in the art would glean from those two primary citations. Clearly, Fearing characterizes its compounds as "poly(oxyorganophosphate/*phosphonate*)" species which are clearly hybrid materials containing two types of organophosphorus species. Phosphonate linkages, which are required by Fearing, are not present in the oligomeric species intended for use by the applicants. This significant difference should disqualify both Fearing references as proper primary citations against the pending Claims.

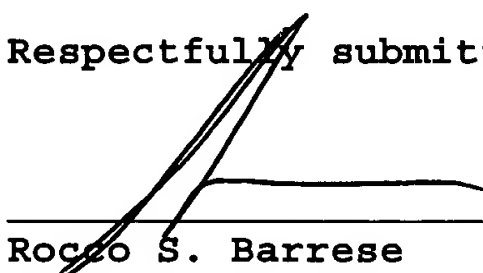
The Fearing patents, as the Examiner has also stated on page 5 of his Answer, "fail to recite specific examples" of additional flame retardant agents. This utter lack of suggestion by Fearing should not be papered over by the assertion that non-halogenated phosphate ester compounds would be an obvious selection merely because they are a known class of flame retardant. This too is a fatal deficiency in the Examiner's use of both Fearing patents as primary references.

The additional citation of Keppeler fails to cure the aforementioned deficiencies of the Fearing citations for the reasons given on page 5 of the Appeal Brief. The Examiner, in his Answer, has failed to rebut the applicants' assertion that Keppeler suggests using aminomethylated phosphonic acid esters rather than the choice that the applicants have made for their component (a).

Sicken's lack of any specificity to its vague indication that additional flame retardants can be used, even if combined with Keppeler, fails to point in the direction of applicants' choice for their component (a) for reasons analogous to those just given.

Reversal of both obviousness grounds of rejection that have been interposed against the pending Claims is requested in view of the comments contained herein and in the Appeal Brief. A copy of a previously-filed Associate Power of Attorney appointing the undersigned in the above-identified application is enclosed. Additionally, this Reply is being submitted in triplicate.

Respectfully submitted,



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Attorney for Applicant(s)